

REMARKS

Summary

Claims 24-35 and 49 are pending in this application. Claims 24 and 49 are independent in nature. Favorable reconsideration and allowance of the pending claims are requested.

Applicant has cancelled claims 1-23 and 36-48 rendering many of these rejections moot. Specifically, in this Amendment, Applicant has cancelled claims 1-23 and 36-48 from further consideration in the Patent Application. Applicant is not conceding that the subject matter encompassed by the claims 1-23 and 36-48 is not patentable. Claims 1-23 and 36-48 were cancelled in this Amendment solely to facilitate expeditious prosecution of the remaining claims. Applicant respectfully reserves the right to pursue additional claims, including the subject matter encompassed by claims 36-48, as presented prior to this Amendment in one or more continuing applications.

New claim 49 has been added. Support for the new claim can be found in the claims 24 and 25 as originally filed. As such, no new matter has been added.

Examiner Interview

Applicants would like to thank Examiner Tran for conducting a telephone interview with Applicants' representative on February 10, 2009. During the interview, Examiner Tran and Applicants' representative discussed the independent claims, the applied reference(s), and the grounds of rejection. The substance of the interview is reflected by the foregoing amendments and the following remarks.

Claim Rejections - 35 U.S.C. § 103

Claims 1-3, 8, 14-16, 36-38 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Publication No. 2007/0209019 to Kaval et al. (hereinafter "Kaval") in view of United States Patent Publication No. 2002/0089546 to Kanevsky et al. (hereinafter "Kanevsky"). Claims 9-13, 21-23 and 44-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaval in view of Kanevsky further

in view of United States Patent No. 6,297,795 to Kato et al. (hereinafter “Kato”).

Applicants respectfully traverse these rejections based on the above amendments.

Claims 24-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaval in view of Kanevsky further in view of United States Patent Publication No. 2004/0155909 to Wagner (hereinafter “Wagner”). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicants submit that Kaval and Kanevsky, alone or in combination, fail to teach or fairly suggest the features recited in claims 24-35. Therefore claims 24-35 define over the cited references whether taken alone or in combination. For example, claim 24 recites the following language, in relevant part:

a display to present a plurality of dynamically sizable active on-screen displayable cells for presenting categories of daily information therein, wherein said plurality of active cells comprise a first cell and a second cell and wherein said first cell is automatically dynamically sized based on changes in its amount of content and also based on changes in an amount of content of said second cell.

Applicant respectfully submits that he has been unable to locate at least the above recited language of independent claim 24 in the teachings of the cited references.

Applicant respectfully submits that the Kaval reference fails to teach, suggest or disclose the above recited language of independent claim 1. As set forth in the Final Office Action, the Examiner accurately states that “Kaval does not expressly teach the adjusting a cell is in response to a change in an amount of information displayed in the dynamically sizable cell.” Office Action, Page 5 (Emphasis in original). Therefore, Applicant respectfully submits that the Kaval reference fails to teach, suggest or disclose each and every element recited in amended independent claim 1.

Furthermore, Applicant respectfully submits that the Kanevsky reference also fails to teach, suggest or disclose the above recited language of independent claim 1. Kanevsky at paragraph 0005 states that “in a window displaying a text, each line of the window is automatically adjusted at the right borders according to the amount of text on a line.” Applicant respectfully submits that Kanevsky, arguably, teaches adjusting a border for a window. However, Kanevsky adjusts the border based solely on a length for a line

of text, and fails to make any reference to another window in making any adjustments. Consequently, Kanevsky fails to teach or fairly suggest “said first cell is automatically dynamically sized based on changes in its amount of content and also based on changes in an amount of content of said second cell” as recited in claim 24. Therefore, Applicant respectfully submits that Kanevsky fails to teach, suggest or disclose each and every element recited in amended independent claim 24. Consequently, Kaval and Kanevsky, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 24.

In fact, both the Kaval and Kanevsky references teach away from such a combination. To establish a *prima facie* case of obviousness, all of the teachings of the cited references must be considered, even disclosures that teach away from the claimed invention. *See* MPEP § 2141.02. Furthermore, the proposed combination cannot render the cited references unsatisfactory for their intended purpose or change the principle of operation of a reference. *See* MPEP § 2143.01, for example. Thus, it is improper to combine references where the references teach away from their combination. *See* MPEP § 2145, for example.

Here, the Kaval reference actually teaches away from making the combination alleged in the Office Action because Kaval sets a height for window 26 based on a required height for window 24. Therefore, there would be no need to analyze any aspect of window 26 to adjust a height for either of windows 24, 26. Kaval, Paragraph 0025. Similarly, the Kanevsky reference discusses only a single window and does not adjust the single window based on any other windows in a display. In fact, the single window is specifically adjusted to prevent obscuring other windows (e.g., background windows 102, 104), and if the single window was adjusted based on some aspects of the other windows it might lead to a contrary result. Therefore, it is improper to make the combination of the Kaval reference and the Kanevsky reference as alleged in the Office Action.

For at least these reasons, Applicant submits that claim 24 is patentable over the cited references, whether taken alone or in combination. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 24. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any

claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 25-35 that depend from claim 24, and therefore contain additional features that further distinguish these claims from the cited references.

In addition, claim 49 recites features similar to those recited in claim 24. Therefore, Applicant respectfully submits that independent claim 49 is not obvious and is patentable over the cited references for reasons analogous to those presented with respect to claim 24.

Conclusion

It is believed that claims 24-35 and 49 are in condition for allowance. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the limitations of the independent claims and dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the claims from the cited references, taken alone or in combination, based on additional features contained in the independent or dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: July 20, 2009

KACVINSKY LLC
4500 Brooktree Road
Suite 102
Wexford, PA 15090